20 August 2018

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex C)
Washington, D.C. 20580

Dear Chairman Simons and Commissioners Ohlhausen, Phillips, Chopra, and Slaughter:

We submit this filing in response to the Federal Trade Commission's request for comments in anticipation of the "Competition and Consumer Protection in the 21st Century Hearings" (Project Number P181201) later this year. In these comments, we are pleased to share our thoughts in response to the suggested topics related to competition and consumer protection issues in communication, information, and media technology networks, as well as the role of intellectual property and competition policy in promoting innovation.

CreativeFuture is a coalition of Americans who create – over 540 organizations and companies and over 190,000 individuals. We make our living creating in film, television, music, book publishing, and photography. Our nation's creative economy, the world's best, is under siege by digital piracy because ever-evolving technologies facilitate the unauthorized duplication and distribution of our valuable creative works – among them, internet platforms, that wittingly or unwittingly serve the interests of illegal enterprises around the world.

In short, our creative communities are victimized by the unfair, deceptive, and anticompetitive practices that continue to be rampant on the internet and are facilitated by a variety of large internet platforms. While the internet has undoubtedly had significant benefits for many creatives, ultimately the current situation has not only hurt the creative communities, but has also harmed consumers and the public good.

*A large number of Americans agree that the government must act to keep Silicon Valley in check. CreativeFuture ran an online petition titled, "*Tell Washington: Hold Silicon Valley Accountable for Their Actions*," which was signed by over 56,000 Americans.*[1] *These signatures can be found on Page 39 of this document.*

Decades-old laws have largely immunized large internet platforms from accountability for the misuse of their platforms to facilitate theft. To a significant extent, they are able to hide behind flawed safe harbor provisions that pre-date the consumer internet as we know it. These overbroad safe harbors have been exploited not only by global criminal piracy operations but also by the internet platform providers themselves, which profit enormously from clicks and advertising by or for those seeking (and often steered by the platforms to) infringing content.

[1] *Tell Washington: Hold Silicon Valley Accountable for Their Actions*, CreativeFuture Petition

The legal framework that protects these platforms stems largely from two '90s-era statutes – the 1996 Communications Decency Act (CDA)[2] and the 1998 Digital Millennium Copyright Act (DMCA).[3] These statutes were intended by Congress to promote the growth of the then-nascent internet by alleviating the burden of liability on the part of intermediaries for the unlawful acts occurring on their platforms, *while also encouraging those intermediaries to act responsibly in addressing abusive conduct*.

When the internet safe harbor laws were adopted by Congress some two decades ago, the internet was little known to most Americans. In contrast, today's internet is central to every aspect of our lives. It's the new Main Street – it's where we do our banking, where our medical records are accessed, and where unfathomable amounts of information about each of us resides. And significantly, unlike the '90s, when the internet was highly decentralized among a network of academics and government researchers, today the true power of the internet is concentrated in a handful of massive platform providers.

America's outdated, overbroad safe harbor protections hamper effective enforcement by or on behalf of rights holders in addressing the facilitation of piracy by the internet platform providers. This has had a negative impact on American creativity – the movies, music, television shows, books, photographs, video games, and other desirable products that make our creative economy the envy of the world. To cite just one example, in just a few seconds of searching on Google, its YouTube subsidiary, or Facebook, one can readily find thousands upon thousands of copyrighted works and the ability to access them *for free* without the permission of, or any compensation to, those who created, invested in, and marketed them.

Strong copyright protections are what give us the freedom to pursue our art as a career, not just as a hobby. Those protections ensure that the months and years of uncompensated work often invested in the creation of songs, crafting a film, or coding a program will be rewarded with a meaningful return.

The U.S. core copyright industries are a significant economic driver, contributing more than $1.2 trillion to America's Gross Domestic Product and employing 5.5 million Americans. These industries are leading exporters, outselling other major U.S. industries – including aerospace, agriculture, and pharmaceuticals. When consumers in other countries enjoy American-made creative products legally, job creation and economic growth occur here.

We strongly believe, and respectfully submit, that because of the enormous harm to our society and our economy that it causes, the practices of large internet platform providers as well as other enterprises that use the internet to promote illegal streaming services should be included within the scope of issues that the FTC examines in connection with the "Competition and Consumer Protection in the 21st Century Hearings."

Harm to Creators and to Competition

Filmmaking is a difficult and demanding process – requiring years of hard work and often millions of dollars in investment. Even on a small independent film, dozens of people work for years to capture an idea and bring it to the screen for audiences. Many in the next generation of creative voices may never have that opportunity because of digital piracy.

Why do we say that?

[2] Telecommunications Act of 1996, tit. V, Pub. L, No, 104-104, 110 Stat. 56, 133.
[3] Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860.

Moonlight, a small independent film, went on to win the Oscar® for Best Picture in 2017. It took Barry Jenkins, the director, eight years to get the movie financed. The film's team worked for little compensation. They signed on because they believed in it, with hope of financial gain if the film were successful. They worked for what is known as back-end participation, which is paid out from proceeds after production, marketing, and distribution costs are recouped.

Worldwide ticket sales totaled $65 million, which translates to approximately 9 million tickets sold. But during the time that the film was in theaters, there were roughly 60 million piracy transactions – *over 650% higher than paid ticket sales.*

It can be argued that those 60 million transactions would not have necessarily translated 1:1 into 60 million legitimate ticket purchases. We agree. But even if *only 5%* of the pirated transactions had been paid theatrical ticket sales, at an average worldwide ticket price of $7.00, the film would have earned an additional $21 million. Or, alternatively, if just 5% of those pirated transactions had been paid downloads or rentals, and at a conservative price of $3.99 per download or rental, the film would have earned an additional $12 million.

This kind of sales displacement by piracy can be life or death for an independent film, and can justify the decision by any financier to no longer invest in up-and-coming filmmakers and their projects.

Not every example of losses to piracy is a matter of life-and-death. However, search and upload functions (such as those popularized by Google, YouTube, and Facebook) allow users to access illegitimate copies of creative content. This presents our creative communities with the constant challenge of trying to make a fair return on investments of time and talent. Services that offer that functionality point consumers to free copies of our creative works, being distributed without our permission, which creates traffic on internet platforms that generates advertising revenues.

In music, with the onset of its digital availability on both legitimate and piracy platforms, the industry essentially collapsed in the span of a decade. In the United States, revenues decreased by more than half – from $14.6 billion in 1999 to $6.3 billion in 2009. Meanwhile, the economy grew 20% and more music was being consumed than ever before. A huge percentage of that drop was clearly attributable to unfair competition from rampant music piracy services. While some musicians made the transition successfully – particularly the subset of artists who excel at live performances, merchandising, and endorsements – many could no longer make a living in music.

Today, the music industry has largely transitioned to digital distribution. Streaming services like Spotify and Apple Music have started to reverse the financial decline, with streaming revenues accounting for two-thirds of much smaller U.S. music industry revenue in 2016. But artists traded and continue to trade dollars for pennies as this digital takeover occurs, with proceeds continuing to be dragged down by piracy.

As recently as two years ago, YouTube, one of the largest music streaming destinations in the world, generated less revenue for the industry in royalties than the relatively niche market for vinyl records. Moreover, musical artists have little or no control over the upload of their music to YouTube. As a result, they can spend huge amounts of time trying to make YouTube take their recordings down (so they can make a fair return through other forms of digital distribution and negotiate market rates for the legal distribution of their music on YouTube), or they can take the fractions of a cent that YouTube may be willing to pay them.

The result is a distortive effect on the market for music, driven by the widespread availability of illegal content and the ineffective response of YouTube and other platforms to it. Thus, an artist whose song is streamed 1,000 times will make $12 on Apple Music, $7 on Spotify, and just $1 on Google's YouTube.[4]

Similar stories can be told in the other creative content industries. The bottom line for all of these industries is that the unfair methods of competition often facilitated and sometimes practiced by the massive internet platform providers results in less creative content than otherwise would exist, fewer new voices, and harm to legitimate sources of distribution.

*A piece written by CreativeFuture Member and Documentary Producer and Executive Producer Mitchell Block (*Carrier, Vessel, The Testimony*) that discusses how Google and YouTube's rampant piracy problem has affected his livelihood can be found on Page 10 of this document.*

Additionally, 13 CreativeFuture Members, including filmmakers, musicians, photographers, and others, participated in writing "StandCreative Series One Stories." These short narratives explain how digital piracy has affected their livelihoods and careers. These stories can be found on Page 23 of this document.

Harm to American Consumers

Our copyright laws, as incorporated into the Constitution and as reflected in the Copyright Act, exist to benefit the public. As noted by the U.S. Supreme Court, "The immediate effect of our copyright law is to secure a fair return for an 'author's' creative labor. But the ultimate aim is, by this incentive, to stimulate artistic creativity for the general public good."[5]

Copyright promotes creativity and, thereby, the general public good. But the lack of accountability and attendant inaction demonstrated throughout much of the internet ecosystem, including by massive internet platforms like Google and Facebook, leads to consumer harm by reducing investment that leads to further creative production.

In film and television, copyright provides investors an incentive to invest in creative works. Film and television production, in particular, are among the most expensive artistic endeavors. The process requires financial backers to believe in a project and see it through to its end – often requiring tens of millions of dollars to be spent before a final product is completed and ready for the marketplace.

Piracy can create enough harm and uncertainty to deter investors, especially for independently-financed films, documentaries, and other works with less than "blockbuster" financial potential – all films that meaningfully increase the variety of content available to consumers.

With less investment, there will be fewer new voices than otherwise would exist, fewer artistic endeavors, and ultimately less creative output, which adversely affects consumer choice.

[4] See A. Abbott, et. al., "Creativity and Innovation Unchained: Why Copyright Law Must be Updated for the Digital Age by Simplifying It", released by the Regulatory Transparency Project of the Federalist Society, October 27, 2017 (https://regproject.org/wp-content/uploads/RTP-Intellectual-Property-Working-Group-Paper-Copyright.pdf).
[5] Twentieth Century Music v. Aiken, 422 U.S. 151 (1975)

There is also a more direct effect on American consumers who are led to illegitimate content by large internet platforms. The threat of malware can be found in a large number of pirate websites and can result in identity theft, ransomware, and financial loss.

A report by the Digital Citizens Alliance[6] found that at least one in three pirate websites expose consumers to malware. Additionally, malware can facilitate a nefarious practice known as "slaving," which results in hackers having access to a computer's camera. Due to these concerns, over 75% of respondents to the DCA's survey believe that the major digital platforms need to do more to keep the internet safe. The FTC itself considered the malware threat serious enough to issue a consumer warning in 2017 and to investigate LimeWire for similar data security concerns in 2010.[7]

The FTC should keep firmly in mind that when the CDA and DMCA "safe harbors" were enacted, the now market-dominant platforms were either in their infancies or did not exist at all. However well-intentioned those "safe harbors" may have been for an industry in its infancy, they have led to a fundamental and unprecedented lack of accountability for the social and economic harm that has become pervasive as the internet has matured. That is how platforms can, without meaningful accountability, drive millions of eyeballs to their sites and monetize that traffic all on the strength of pirated content.

It's not a coincidence that as recently as two years ago the content industry sent Google *over 900 million DMCA takedown notices*. Because of how the law is written, Google and YouTube can shrug their shoulders and reap advertising revenue while millions of views are racked up – in many cases from outright piracy, in others from videos that provide links to piracy, in many others from unlicensed uses of copyrighted works, etc.

Neither the entertainment industry, nor any legitimate business in the world, can "compete with free" when the "free" product is a perfect, stolen, endlessly replicable version of their own product. Nor can other streaming services like Apple Music or Spotify, which, unlike YouTube, do not attempt to leverage the availability of free, pirated content on their platforms to negotiate against musicians and their labels.

But these are certainly not the only ways in which large internet platforms lack, or try to avoid, accountability. In the past, Google agreed to a non-prosecution agreement with the Department of Justice over its role in accepting advertising dollars from unlicensed pharmacies. It was also forced to respond to statements by pirate site operators that came to light in litigation claiming that Google was actively assisting those sites to drive traffic to them by suggesting piracy-related keywords, with the majority of advertising revenue on those sites flowing back to Google.[8]

[6] Enabling Malware, July 2016

[7] Google and Facebook both have a history of data privacy and data security violations: In 2011, each company entered into an FTC consent decree to settle serious allegations of consumer privacy violations, and both promised that they would protect consumer data going forward. Subsequently, in 2012, Google agreed to pay $22.5 million to settle new FTC charges that it violated the FTC Order by misrepresenting privacy assurances to users. And in 2018, the FTC announced that Facebook was under investigation for violating its 2011 Order through allegedly inadequate consumer data security in connection with the Cambridge Analytica scandal.

[8] See Media Firms Say Google Benefited From Film Piracy, Wall Street Journal, February 12, 2007 (available at https://www.wsj.com/articles/SB117125197567105533)

More recently, Google fought Congress in the passing of the Fight Online Sex Trafficking Act (FOSTA)[9] because it would amend part of the Communications Decency Act and allow victims of sex trafficking to hold accountable websites that knowingly facilitate child sex trafficking, like Backpage.com.

Facebook claims to not be able to shut down groups that exist solely to share pirated content[10] – even though they do manage to remove groups participating in other illicit activities. Of course, Facebook relies on a revenue model that prioritizes time spent on the service, so if the groups go away, so does the associated user time spent on Facebook.

This fundamental lack of accountability deserves to be addressed.

Between March and June of 2018, we ran a nine-question survey that polled the public on their feelings about platform responsibility. Over 2,000 Americans answered.

Here are some key findings:

- Over 80% of respondents believe that online platforms should take responsibility for the illegal actions taken on their networks.
- Just under 80% of respondents (79.85%) believe that given the tremendous growth of the internet over the last 20 years, it is time to reconsider the Digital Millennium Copyright Act (DMCA) and the Communications Decency Act (CDA).
- Over 77% of respondents believe Google, Facebook, and Twitter should take greater responsibility for the use of their platforms to facilitate the illegal distribution of copyrighted movies, television shows, music, photography, and books.

You can read more about this survey, along with a question-by-question breakdown, on Page 13 of this document.

Lastly, like unlicensed pharmacies, sellers of streaming piracy devices, colloquially known as "Kodi Boxes," use Google and Facebook, among a variety of other services, to find customers and sell them their illicit goods.

These devices are media players that use "Kodi" software, an open-source video platform that can be used to access and organize a user's content – regardless of its legitimacy. In addition to organizing one's media library, Kodi-enabled devices can also be loaded with applications known as "add-ons."

These add-ons are similar to the Netflix app and other apps that operate on Roku, Firestick, Chromecast, or Apple TV devices. But there is *one big difference*: many add-ons for Kodi facilitate access to pirated content – everything from live television channels, limitless movies and television shows, and every premium broadcast available, from all around the globe. These apps may be pre-loaded onto Kodi boxes or may be downloaded after purchase.

[9] Allow States and Victims to Fight Online Sex Trafficking Act of 2017, Pub. L. No. 115-164.
[10] See Facebook is Overflowing With Groups Offering Pirated Films — and Says it Won't Do Anything About It, July 13, 2018 (available at https://www.businessinsider.com/facebook-groups-sharing-pirated-hollywood-movies-2018-7)

Advertisements for Kodi boxes, which typically sell for just a few hundred dollars, promise consumers "free television and hundreds of live channels" and advertise their services as "100% legal" – a blatant misrepresentation that lures unsuspecting consumers into commercial transactions with a business that appears to have the trappings of a legitimate commercial enterprise but is anything but.

*An op-ed written by CreativeFuture Member and Producer Wendy Finerman (*Forrest Gump, The Devil Wears Prada*) that discusses the dangers of streaming piracy devices and apps can be found on Page 8 of this document.*

Conclusion

We join other representatives of the creative industries in urging the Federal Trade Commission to consider these issues and their impact on competition and consumer protection, as it considers competition and consumer protection issues in communication, information, and media technology networks.

Sincerely,

Ruth Vitale
CEO, CreativeFuture

Will the Spirit of American Cinema Become Extinct?
By Wendy Finerman, *The Hill*
March 7, 2018

When I produced *Forrest Gump* and *The Devil Wears Prada*, it was astonishing to see each of them come together, from books to scripts to financing to shooting to the day they were in theaters. Amazingly, they both hold up beautifully years after they were released. The movies still inspire audiences, make them laugh, cry and think – all very true emotions that are at the heart of American filmmaking.

It took over 10 years to get *Forrest Gump* to the big screen. The film is a result of years of toil from hundreds of people to craft this singular experience.

Forrest Gump was released in theaters in 1994, a very different world of watching movies than we now inhabit. People didn't "stream" movies at home – they were still driving to and from Blockbuster with bulky tapes. We didn't give much thought to piracy back then.

Fast forward to 2018, and if that movie were released today, it would be available illegally online, from unauthorized sources, within hours. You don't need to be a tech genius to figure out how to see it. All you would need to do is get a "fully loaded" piracy device (sometimes referred to as a Kodi box) and you could be watching any movie *ever made* within seconds – all in the privacy of your own home and on your 60-inch flat screen TV – for free, with no compensation to anyone who helped make the film.

Kodi by itself is legal software that can be loaded onto any Android streaming device, creating a viewing interface on the television screen that functions similarly to the Apple TV. However, devices that use the Kodi platform can be easily misused. When they are loaded with third-party add-ons, the user can access a virtual treasure trove of pirated entertainment media from all over the world.

Unscrupulous companies are profiteering by buying massive numbers of empty set-top boxes, loading them with Kodi and illegal apps, then selling them at a high markup. One of the most notorious is "TickBox," which has been making headlines for its role in enabling piracy on the grandest of scales. That includes "Forrest Gump" and "The Devil Wears Prada", and as well as live streams of cable and pay TV channels from around the world. Don't believe me? Here's what TickBox's marketing pitch looked like (as it appeared on their website until they were ordered by a court to take it down):

"Simply plug the Tickbox TV into your current television, and enjoy unlimited access to all the hottest TV shows, Hollywood blockbusters and live sporting events in one convenient little device, absolutely free."

But entertainment *isn't* free – it costs money to develop an idea and then execute it. Whether it's a live event, or a film, or a television show, companies big and small spend millions of dollars to bring us the characters and stories we love.

Some piracy operators even have the gall to charge additional subscription fees for "services" that pipe in stolen content, usually for about $10 a month. A recent study from the Internet research firm Sandvine found that an estimated 7 million North American households now have a piracy device, earning criminals about $840 million per year. And this is nothing compared to the billions lost when the device users stop paying for legitimate access.

Because they look and work just like brand-name set top boxes, these streaming piracy devices normalize piracy, ushering content theft into the cheerful light of the living room. Now it may feel just like home, but you and your family are breaking the law from your couch.

Fortunately, the news about Kodi is not all bleak. TickBox has been called out for their blatant thievery, and the courts are listening. In January, a judge in California saw through TickBox's protestations of innocence and slapped the Georgia-based company with an injunction, ordering it to keep pirate add-ons off of its devices and halt all advertisements that encourage piracy.

But while the end may be near for TickBox, our fight is far from over. A recent study found more than 750 websites that sell infringing devices, which means that wherever a TickBox falls, another like-minded device will step in to take its place.

The battle against piracy will remain an endless game of Whack-A-Mole until we change the conversation at the federal level. In Europe, the highest court has ruled that fully-loaded piracy devices are illegal, and UK law enforcement have brought numerous criminal cases against box purveyors, obtaining jail sentences as long as four years. In our country, prosecutors, with the encouragement of Congress, should be working to deliver a similar knockout blow.

My fear is that the growth of streaming piracy will prevent films like mine from being made. Although "out of the box" films often reap a higher return on investment than franchise films, they have no built-in audiences and therefore are financially riskier than franchise films that do.

My hope is that services like Tickbox will be stopped so that the next generation of American writers, directors and producers have a chance to tell their stories. If the growth of streaming piracy devices continues, it will deprive audiences of the life long memories that come from watching classic American cinema.

Piracy must be stopped – for all of us.

Wendy Finerman is an Academy Award®, BAFTA®, and Golden Globe®-winning producer. She has produced films and television shows including Forrest Gump*,* The Devil Wears Prada*,* Drumline*, and* Stepmom*, among others.*

I am a Filmmaker and My Films Are Being Stolen on YouTube – this is My Story.
By Mitchell Block, *CreativeFuture Blog*, April 11, 2018

In 1973, fresh out of film school, I wrote and directed the dramatic short *No Lies*, an important film because of its open, and unfettered, discussion of sexual violence against women.

Today, *No Lies* is included in the National Registry and in the curriculum for film theory, women's studies, and anthropology college courses across the country. However, due to its subject matter, it struggled to find distribution after its initial release. So, I elected to distribute it myself.

More than 40 years later, my company, Direct Cinema, has produced, marketed, or distributed works by some of the leading figures in filmmaking, including John Lasseter, George Lucas, Martin Scorsese, and Ken Burns, among others – their films have collectively won nearly 30 Oscars® and have garnered close to 100 nominations.

My business grew and flourished by providing copies of little seen, often underappreciated, frequently challenging works to institutions that could benefit most from seeing them, including colleges, universities, public libraries, senior centers, and prisons.

As I write this, however, our business model is over.

It started in the 1980s with the invention of VHS formats. Then came the rise of the MPEG format in the '90s and, with it, illegal file sharing of motion pictures. Then, in 2005, came the death knell – with the emergence of YouTube and similar video streaming companies.

There are currently hundreds of films from Direct Cinema's past and current catalog that have been uploaded to YouTube and other sites like it. Every single one of them, from the popular PBS series *Carrier* to Disney's Oscar®-winning animation short *Tin Toy*, is being streamed illegally.

One YouTube user called "2009dinia" has had *Tin Toy* up and running since 2012. On that page alone, the film has received more than 1 million pirated views.

YouTube is fully aware that its site is rife with such content, which infringes on copyright and robs creatives of the earnings they deserve – even as the uploaders of the content make money from it via advertising. However, instead of actively seeking to curb piracy, YouTube puts the burden on copyright holders, like me, to flag videos for removal.

Needless to say, I spend a lot of time flagging our pirated videos on YouTube.

This task used to be much easier thanks to the Content Verification Program (CVP), a tool that allowed me to enter a Direct Cinema title into the YouTube search bar, and simply click a box next to each result that violated my copyright. I could then mass-submit a page of pirated uploads for one title, all at once, and then move on to the next page or the next title.

Even then, it was an endless game of Whack-A-Mole to keep on top of all the piracy, but the tool helped, allowing me to take down hundreds of infringing videos in a matter of minutes.

Until one day, when I logged onto my YouTube account and discovered that the Content Verification tool was gone. Vanished.

The tool was (and is) still a feature of the site, but my access to it had been removed.

Undeterred, I went through the rigmarole of applying to get the tool back, but my application was swiftly rejected, with the following note from the anonymous YouTube powers that be:
"We have decided that you are not an appropriate candidate for this tool. The CVP tool is designed for large copyright holders who expect to have an ongoing need to have content removed from YouTube."

My company may not be publicly traded, but with a few hundred titles and decades of experience, we certainly have an "ongoing need to have content removed from YouTube."

Having denied us the process that made it at least somewhat possible to protect ourselves from streaming piracy *en masse*, the YouTube rejection email proceeded to invite us to flag future infringing content on a case by case basis, by filling out a separate web form for each offending video.

Concerned, I wrote a message to YouTube's help center:

"Our works are stolen in large numbers on your site and providing individual notices for each take down is time-consuming and ineffective. Historically, we had a way of ticking a box and signing off. We would like that method returned to us."

Months later, I have yet to receive a response to this query from anyone at YouTube, or Google, its parent company. Instead, my requests to be reconsidered are just blocked automatically, with no email address to write to or phone number to call.

Being ignored when I'm trying to find a simple solution to the problem is infuriating, but more importantly, I simply don't have time for this. I'm trying to run a business that supports independent filmmakers and provides high-quality cinematic offerings to community institutions worldwide.

I am far from a "studio fat cat," not that the fat cats don't have the same rights and also work their tails off. Creatives, big and small, are all in this together – piracy hurts us all, from the director of the next comic book blockbuster to a little-known animator trying to get a short into a festival.
Based on the above exchanges, it's obvious that YouTube just doesn't care. It's not in their interest to change things because their business model depends on the monetization of content that they don't create or own. Long-outdated exceptions in our country's laws allow them to get away with it, evading accountability for illegal content that appears on their site.

Of course, when YouTube is selling video streams of its own licensed films, other pirated copies on the site have a way of quickly vanishing. (Try to find a free copy of the Warner classic, *Willy Wonka and the Chocolate Factory*, for instance.)

Apparently, someone at YouTube still has access to the CVP tool. I wish the same could be said for Direct Cinema and other indie film providers who have been deprived of this convenient method to limit the online infringement of their offerings.

Our legislators have the power to help. As I write this, NAFTA renegotiations continue to unfold. The new trade agreement could feature strong copyright protections and its “safe harbor” provisions could be eradicated, taking away the blanket immunity big tech companies like YouTube now enjoy from the innumerable acts of piracy occurring on their platforms.

It’s high time Congress forced these sites to own up to the stolen content that they inadvertently host, but openly use to turn a substantial profit. YouTube must be held responsible for the materials its users share, taking stronger measures to ensure that the person who uploads a video also owns its copyright.

In the meantime, I will keep removing pirated Direct Cinema movies from YouTube. It’s a lot harder to do than it used to be, but I have no choice. My livelihood, and the livelihoods of all the creative people whose work I support, depends on it.

Platform Responsibility Survey

Between March and June of this year, CreativeFuture ran a nine-question survey that polled the public on their feelings about platform responsibility. Over 2,000 Americans answered.

With a variety of scandals involving Big Tech coming to light over the last few months, our results demonstrate that the American public is ready for our government to take action by reining in Silicon Valley.

Here are some key findings:

- Over 80% of respondents believe that online platforms should take responsibility for the illegal actions taken on their networks.
- Just under 80% of respondents (79.85%) believe that given the tremendous growth of the internet over the last 20 years, it is time to reconsider the Digital Millennium Copyright Act (DMCA) and the Communications Decency Act (CDA).
- Over 77% of respondents believe Google, Facebook, and Twitter should take greater responsibility for the use of their platforms to facilitate the illegal distribution of copyrighted movies, television shows, music, photography, and books.

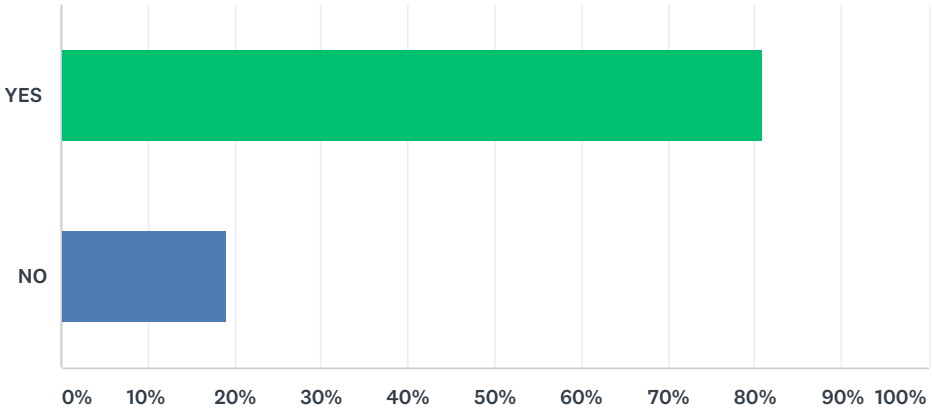
CreativeFuture believes that the tide is turning – Americans are beginning to view Google and Facebook as entities that have existed outside the reach of our laws for too long. Through safe harbors that were created at a time when the internet was still in its infancy, these now large corporations act irresponsibly and in their own best interest, regardless of who or what gets hurt in the process.

Due to the amount of money that is being made by Silicon Valley, only action by the government will compel these companies to begin acting responsibly and within the confines of the law.

The complete results of our survey can be found following this cover letter.

Q1 There is growing evidence that the major internet platforms are being used for purposes that may violate U.S. laws. Should the major internet platforms take responsibility for these uses of their services?

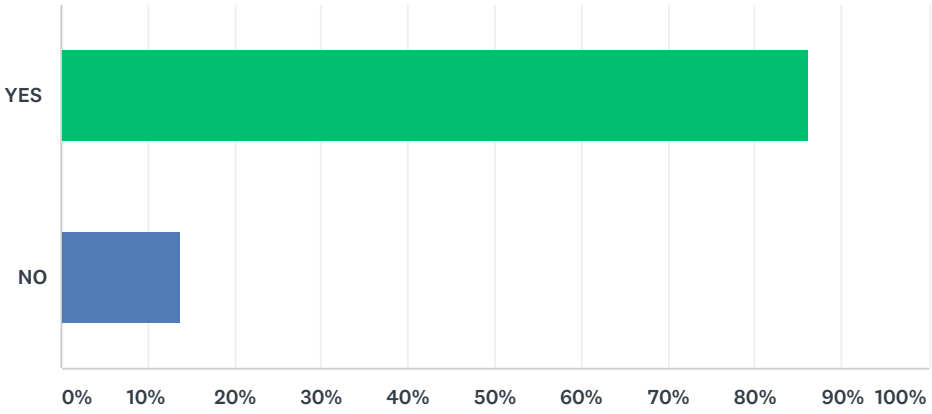
Answered: 2,071 Skipped: 6



ANSWER CHOICES	RESPONSES	
YES	80.98%	1,677
NO	19.02%	394
TOTAL		2,071

Q2 Recently, the major internet platforms opposed the Stop Enabling Sex Traffickers Act (SESTA) because they want to avoid responsibility or legal liability for such uses of their services. Do you believe that the major internet platforms need to do more to stop sex trafficking on their services?

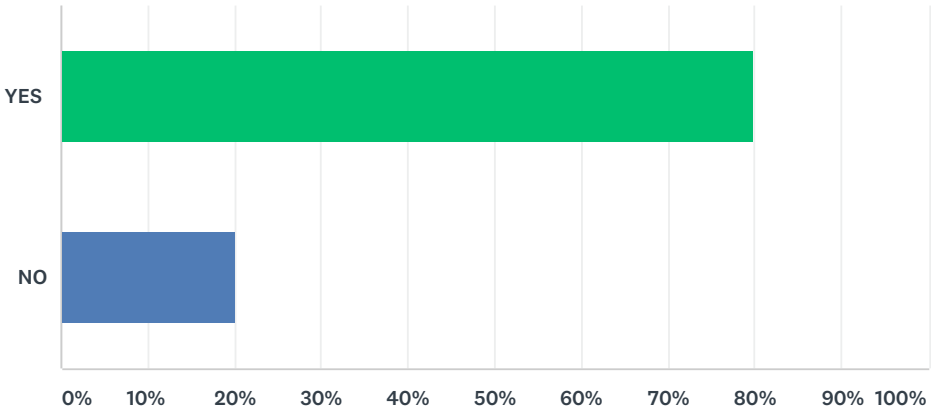
Answered: 2,064 Skipped: 13



ANSWER CHOICES	RESPONSES	
YES	86.19%	1,779
NO	13.81%	285
TOTAL		2,064

Q3 The major internet platforms benefit greatly from the Digital Millennium Copyright Act (DMCA) of 1998 and the Communications Decency Act (CDA) of 1996, two 20-year-old laws that were intended to give the then-fledgling internet the opportunity to grow. Today, the major global internet platforms – companies like Facebook, Google, and Twitter – use these laws to avoid taking responsibility for the content they deliver to consumers or help them find, and from which they make immense profits. Given the tremendous growth of the internet in the last 20 years, do you believe it is time to reconsider the DMCA and the CDA?

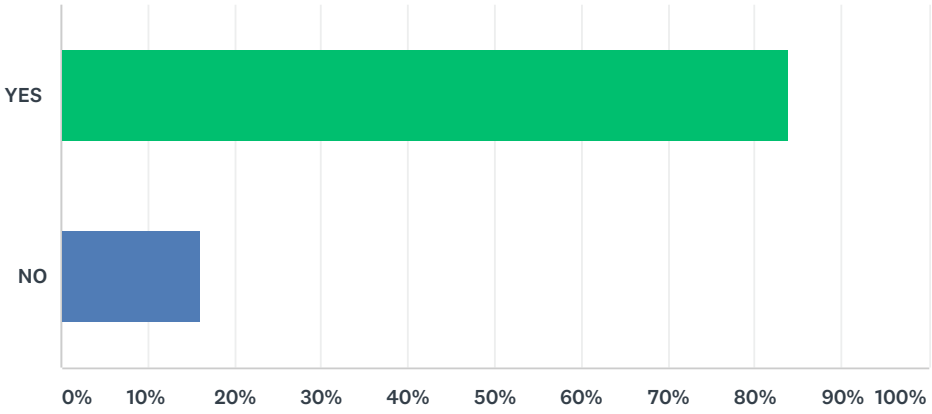
Answered: 2,060 Skipped: 17



ANSWER CHOICES	RESPONSES	
YES	79.85%	1,645
NO	20.15%	415
TOTAL		2,060

Q4 Do you believe that services like Facebook, Google, and Twitter should take greater responsibility for the use of their platforms to promote false and misleading news articles?

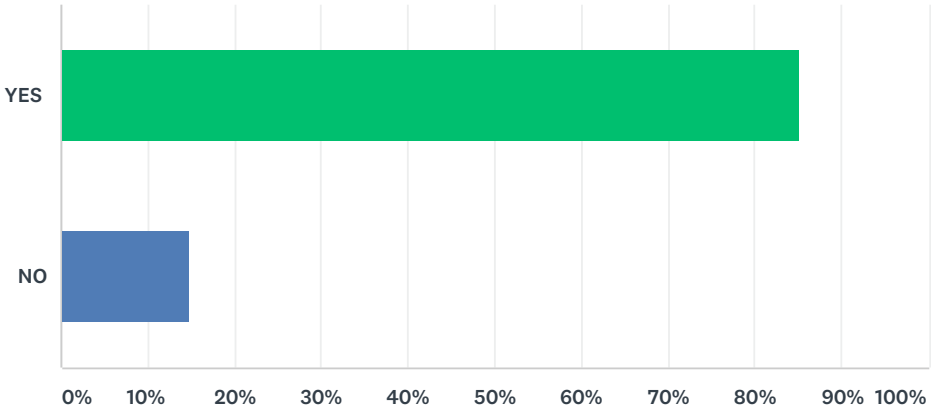
Answered: 2,069 Skipped: 8



ANSWER CHOICES	RESPONSES	
YES	83.95%	1,737
NO	16.05%	332
TOTAL		2,069

Q5 Do you believe that services like Facebook, Google, and Twitter should take greater responsibility to ensure that foreign agents cannot use their platforms for political advertising or influence?

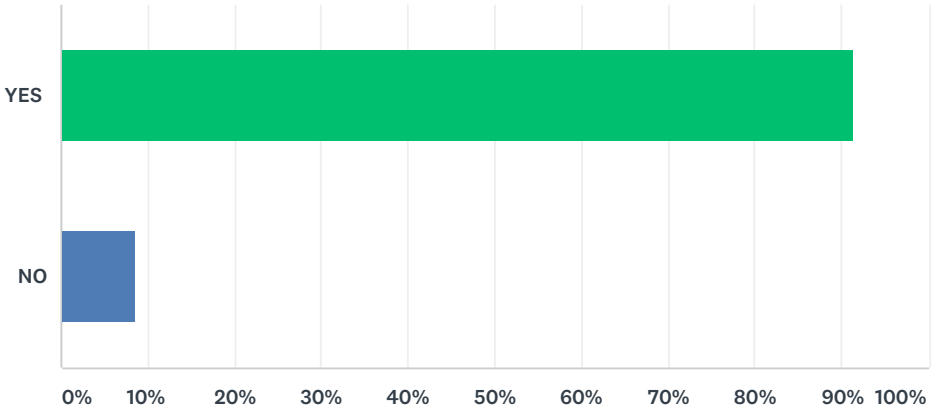
Answered: 2,072 Skipped: 5



ANSWER CHOICES	RESPONSES	
YES	85.14%	1,764
NO	14.86%	308
TOTAL		2,072

Q6 Do you believe that services like Facebook, Google, Twitter, and others should take greater responsibility for protecting the privacy of their users?

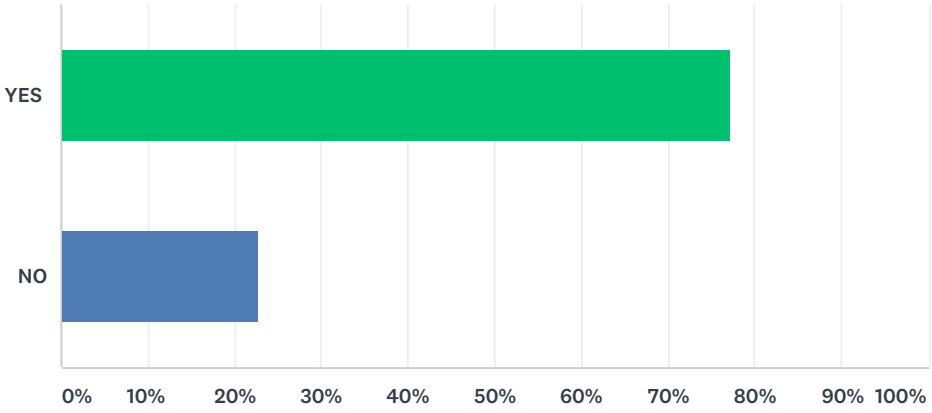
Answered: 2,070 Skipped: 7



ANSWER CHOICES	RESPONSES	
YES	91.50%	1,894
NO	8.50%	176
TOTAL		2,070

Q7 Do you believe that services like Google, Facebook and Twitter should take greater responsibility for the use of their platforms to facilitate the illegal distribution of creative copyrighted movies, television shows, music, photography, and books?

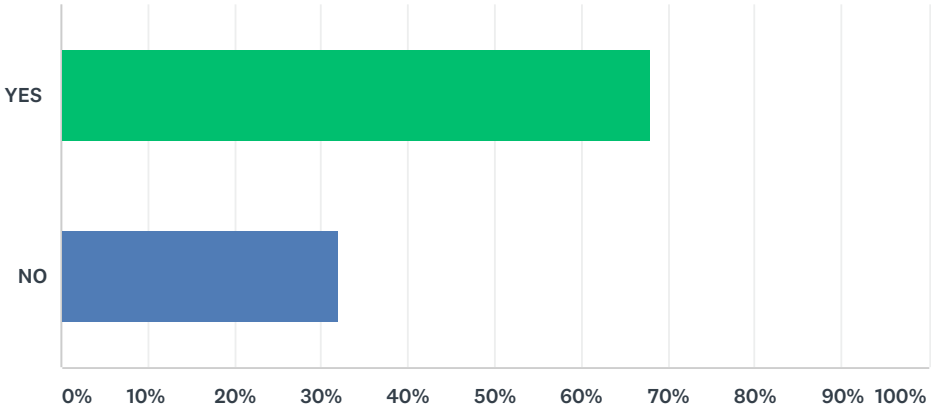
Answered: 2,064 Skipped: 13



ANSWER CHOICES	RESPONSES	
YES	77.18%	1,593
NO	22.82%	471
TOTAL		2,064

Q8 Has the growing public attention to the failure of giant internet platforms like Facebook, Google, and Twitter to take responsibility for their role in facilitating illegal activities changed your opinion of the companies?

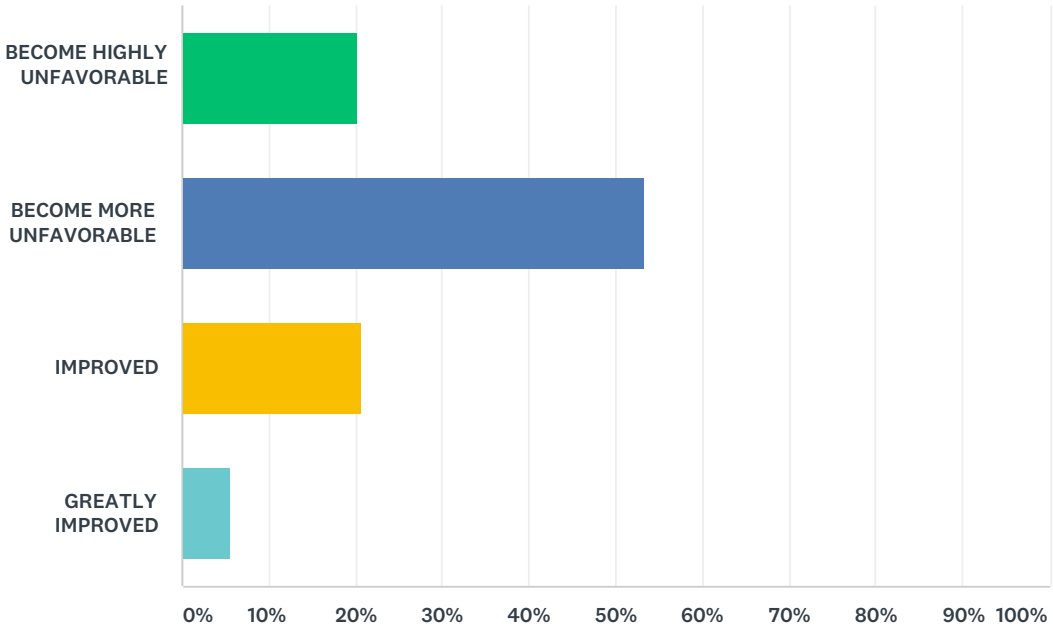
Answered: 2,069 Skipped: 8



ANSWER CHOICES	RESPONSES	
YES	68.05%	1,408
NO	31.95%	661
TOTAL		2,069

Q9 If your opinion has changed, has it ...

Answered: 1,962 Skipped: 115



ANSWER CHOICES	RESPONSES	
BECOME HIGHLY UNFAVORABLE	20.29%	398
BECOME MORE UNFAVORABLE	53.31%	1,046
IMPROVED	20.80%	408
GREATLY IMPROVED	5.61%	110
TOTAL		1,962

StandCreative Series One: Lisa Hammer
February 22, 2016

I have been an artist my whole life.

I spent thousands of hours and dollars studying film-making, music, and acting. I have been creating my own work since the 80s and for many, many years I was able to make a good living as a filmmaker/musician. I was able to live well, perform and record with the band, create and screen my films, and reinvest my earnings back into my work.

This, unfortunately, has dried up in recent years due to piracy. A few years ago, I made the mistake of Googling my bands. To my horror, I was easily able to find dozens of sites giving my songs away or charging for them, selling ads, etc. I had never heard of these companies and they were not sending royalties to me or to my record label. My label went to battle daily to bring these sites down, but every time they cut one head off, two more would grow in its place.

It is now impossible for me to continue with my band.

The same has happened with my films. I used to make money through distribution on tapes and DVDs, and even a few VOD. But now, as soon as I release a film through an online distributor, or submit it to a film festival, I see links to the film on a YouTube channel.

I ask Google to take it down. They do. Two days later, my partner emails in a panic. Three more links for our film have been put up on YouTube. This goes on every week now and we only just finished post production on our most recent feature. The film hasn't even been screened at a festival yet or considered by a distribution company. My last feature has only made about $100 on a legitimate VOD site because it's being given away for free all over the internet.

I am not a huge, greedy studio as the pirates and fans might imagine. I am a small, indie filmmaker creating content with my own pocket money and fan-funding. For the first time in my career, my bills are piling up and I can't keep up. I have no idea how to monetize my work or continue to afford making my films and music.

StandCreative Series One: Valerie McCaffrey
February 23, 2016

I thought that being part of a film that could reach out across borders both in America and Armenia and could make people laugh would be a perfect venue for the film audience both here in the US and the world.

Lost and Found in Armenia was made for a price, starred American and Armenian actors, and it seemed like it was the beginning of great relationship with the Armenian investors who were interested in continuing to make films for their community.

We had screenings in the US and the film was well-received. But, unfortunately, right when the film was going to be released theatrically in the US, the film was also available, for free, on YouTube.

How did this happen? Evidently, the film was stolen from where the Russian version of the film was going to be processed. But by the time I could stop it, it was seen thousands of times and several others like it came popping up. I was mortified. YouTube was being difficult. Every time I would take one down, two others would appear. And then YouTube refused to take down the links because the email address from which we were sending the requests was not associated with a website – even though it was the same address we had been using all along! At one point, there were eight separate links!

The task of reporting this infringement to YouTube was a full-time job. And since our distributor had made a flat deal with the Russian distributor, I was not given any recourse. The distributor collected their money and that was that. "It happens," a representative of our distributor told me. As a matter of fact, they sent me a standard reply that they had cut and pasted – I knew it was standard because they sent it to me twice and it was exactly the same wording! So I guess this was the norm — to make a film and for it to get stolen.

Our investors, whose money was hard earned, are still wondering what happened to their investment. Just recently, I took down a site that had over 55,000 downloads even though the movie was released in 2012!

We all worked hard on this film and wanted it to succeed financially so we could make more films. In my opinion, YouTube needs to be held accountable for money lost. They also need to be more responsible in protecting not just my film but also all creative works, especially in foreign territories. It's terrible that this happens and it has got to stop.

StandCreative Series One: Allison Burnett
March 2, 2016

These days, when only a tiny fraction of indie films are released theatrically, a small film's primary hope of financial recoupment is through Pay Per View.

My film's producers and I were filled with optimism when the date of our film's release arrived. Imagine, then, our horror when within 24 hours of the film appearing on iTunes, Amazon, Direct TV, and a host of other platforms, we discovered that it was also available on YouTube. One click and the film almost instantly streamed in perfect high definition *for free*. We reported the crime to our distributor who immediately reported it to Google. But no sooner would a link come down and then two more would appear.

By the end of two weeks, there were half a dozen sites streaming it for free. I got so disgusted with it that I even contacted one of the sites myself. A young Palestinian out of his West Bank apartment ran the site – he was so mortified to be contacted by the filmmaker himself that he apologized and took down the film.

However, we eventually just surrendered. We were fighting a losing battle. The only way to combat the anxiety and pain of our little film losing thousands and thousands of badly needed dollars was to stop checking YouTube altogether. Call it the ostrich approach to emotional and psychological self-preservation. The only interruptions to this self-imposed blackout were the daily tweets in my Twitter feed from young fans offering their friends free links to stream the movie.

I would tweet back a simple message – "THIEF!"

StandCreative Series One: Jane Clark and Bob Tourtellotte
March 7, 2016

We are independent filmmakers who thought we knew about piracy and its full impact until, of course, we didn't. We had raised money, made movies on a budget, screened at festivals, marketed online, and purposefully released our films in the new world of electronic sales. With *Crazy Bitches* we were a Top 10 download our opening weekend with a "box office" trumpeted by my cousin, who called to say we were No. 9 against *Fifty Shades of Grey* and the chat room buzz was strong – all on torrent sites.

Piracy was out there in cyberspace – not in our garage office. Our opening weekend was Valentine's Day 2015. More than 650 links to illegal copies landed on a range of sites including "legit" ones like YouTube.

They all made money – we didn't. Why? Why is piracy acceptable? Is it legal to walk into Walmart, take a DVD, and leave without paying? Absent a digital box office return, we cannot make another movie. Our indie voice will go silent. A crew of about 50 will not be paid. A good story won't reach you.

It doesn't have to be that way.

All us creative folks earn a living by trading our goods or services for cash. Pirates make money too, but they do it by exchanging a "free" product – "free" to them because someone stole it – for advertising revenue or from selling your private info or email or pushing malware onto your laptop or mobile device.

They profit by doing harm, but I bet you don't. I bet you work for your money – like we do. Please think about that before downloading your next "free" movie.

Paying benefits all of us – we make more movies, and you get to watch them – and puts the pirates out of business.

StandCreative Series One: Wayne Kramer
March 9, 2016

The day my most recent film, *Pawn Shop Chronicles* debuted on Video-On-Demand (which was on the same date as its theatrical release), the film was recorded in a perfect HD quality copy from one of its VOD rentals and illegally uploaded to the web. By the end of the first day of its availability on VOD, I could download the film for free from one of several thousand illegal links. I'm not exaggerating when I say **several thousand** links. Page after page of illegal download sites (torrents, streaming sites, and file lockers) were popping up one after the other. The film was also uploaded to YouTube multiple times and fake versions can still be found that redirect you to a site where you can illegally download or stream the actual film. A Twitter search of the title revealed that fans of the late Paul Walker (the star of the film) were brazenly posting torrent links for all interested parties. One fan posted on my Facebook page to tell me how much he enjoyed the film, while at the same time admitting to having illegally downloaded it. Even as I write this, if you enter "Pawn Shop Chronicles download" into Google, you'll get 114,000 results, the second choice listed being for an illegal torrent site (as are most of the links).

Now here's the thing: to this day I have never received any money for directing "Pawn Shop." Both Paul Walker and myself deferred our fees to put the money back into a financially strapped production. The film has not made back its five-million-dollar budget and the financiers of the film have not come close to recouping their original investment. About two months ago when I made my most recent inquiry, I was told "Pawn Shop" is still several million dollars in the red, translated as: I will never see a dime for all the work I put into the film. The Directors Guild of America even commissioned my salary on the film – money which I was never actually paid since my fee was deferred – and thankfully the producer covered my DGA costs or I'd personally be way into the red on the film.

I'm just bringing up the case of **one** low budget film here. ALL of the films I've directed have been pirated with a loss in residuals to myself that is likely in the hundreds of thousands of dollars. For each one of them you can find hundreds if not thousands of illegal links with a simple Google search of the title. Shortly after Paul Walker's death, a guy named Brandon Donovan uploaded "Running Scared" (a film that I wrote and directed, which also starred Paul Walker) in its entirety on YouTube in HD quality. His supposed reason for posting the film was to 'honor Paul Walker.' By the time I became aware of it, the film had been viewed over 200,000 times (with another copy having been viewed 260,000 times and being up on YouTube for more than a year). I identified myself as the writer and director of "Running Scared," to Brandon and politely asked him to take down the film. His response was that "[I] should go f*** [my]self." I tried reporting Brandon's upload of "Running Scared" to YouTube as copyright infringement, but because I'm simply the writer and director of the film and not the copyright holder they would not take any action to remove it. Now it would be obvious to most Google/YouTube employees that "Running Scared" is the property of New Line/Warner Bros./Media 8, etc., simply from the logos featured on the front of the film or a quick IMDB search. But Google has chosen to wrap themselves up in red tape and a labyrinth bureaucracy when it comes to acting on reports of piracy. I had to waste a whole lot of time tracking down someone in Warner's legal department to get YouTube to take action. And when they finally did remove the film, another copy took its place within days. Let's also keep in mind that the entire time the film was illegally available on YouTube, Google was monetizing it through advertising. I don't believe Warner Bros. or anyone involved in the making and financing of the film saw any of that money.

I'm not a rich guy. I work hard like everyone else to provide for my family. For the most part, I work in the low budget arena. If I'm lucky, I get to direct a film once every four or five years! And when I do direct a film, half of my fee typically goes to my agent, manager, and guild commissions, as well as legal fees and

taxes. With the down-sizing taking place in our industry over the last few years, budgets have become significantly smaller along with talent fees. This is happening in no small part due to piracy. A film that I directed ten years ago, which had a budget of fifteen million dollars, is expected to be made today for five million and under. And, yet, the producers and audiences demand the same level of production value as the fifteen-million-dollar film. I can tell you that is simply not possible. I'm required to do in 20 or 25 days now what I had previously been given 45 to 50 days to achieve – and even that was tight given the ambition of the material. You also have less money to spend on production design, set dressings, costumes, props, visual effects, music, etc. The whole thing becomes a downward spiral because budgets have been squeezed so much due to the losses incurred by most lower budget films – and, again, a huge part of this comes back to piracy.

Our children are growing up in a culture today where music and movies are free for the taking. They see nothing wrong in illegally downloading entertainment and swapping torrent links on social media. If anything, their popularity is reinforced by making as much free content available for downloading among their peers. The films that are getting hurt the most are the latest independent films that ten years ago were given the chance to thrive in theaters with limited releases and a healthy DVD afterlife. The future doesn't look good for the next "Pulp Fiction" or "Memento" or "Boogie Nights." I remember spending a hundred dollars to buy a laser disc of a film I loved back in the nineties—and that's when I could barely afford to feed myself. Today, that would be unheard of. High Definition content on Blu Ray typically sells for under $20 and often times for as low as $5 or $6 after a year or two. And still these films are ripped-off online. How is this a sustainable model for any business?

The sky is indeed falling and we need many hands to help prop it up. Please join us in getting the message out: if you enjoy our work and wish to see more of it in the future, please don't steal it.

StandCreative Series One: Cassian Elwes
March 11, 2016

I cut my teeth in the film business in the mid-80s, before the internet or even piracy was even a thing. Piracy back then was the guy on the street corner selling bootleg copies or the guy sitting in the back of the theater recording the movie directly onto a VHS tape. Not to minimize the criminality of these acts, but piracy has grown up right alongside the internet like a little brother who won't stop stealing candy bars no matter how many times he gets his hand slapped.

Well it's high time we move from hand slaps to something a bit harsher.

As a producer, and particularly as an executive producer, my job is to understand the finances of a film – what is it going to cost us, versus what we are going to make on it. In 2013, I was the executive producer on *Dallas Buyers Club*, a critically-acclaimed film that had strong Oscar® buzz. Even with this popularity surrounding our film, I was amazed to see the millions of illegal transactions from all over the world pour in. People all over the world downloaded or streamed my movie illegally without paying a dime. This wasn't the aforementioned guy on a New York street corner with DVD boxes lying on a picnic blanket. This wasn't the guy filming from the back row of a seedy multiplex. These are millionaires hosting our film on their site as they reap the benefits of ad-revenue from legitimate brands that have no idea where their logo is appearing. This is not a petty thief or your garden-variety shoplifter – this is a well-oiled criminal enterprise putting dollars in their bank accounts that rightfully belonged to our crew, our actors, our distributors, and myself.

I felt helpless – but I simply had to chase them. And I did, but in the end, after years of running after them, I threw in the towel.

With the tools we have in place and the lack of help we're getting from companies like Google, who facilitate the flow of traffic to these pirate hosting sites, we're fighting a losing battle. As soon as we celebrate a hard-fought but minor victory, new sources would surface almost instantly, providing new links, new hosting sites, and new avenues for people to watch *Dallas Buyers Club* without paying the talented people who made it a reality a single cent. It's not right.

The truth is that if this continues, independent cinema has its days numbered. We need to fix this and we need to fix it soon.

StandCreative Series One: Kari Tieger
March 18, 2016

My name is Kari Tieger and I'm a bilingual singer/songwriter and composer registered with the American Society of Composers, Authors, and Publishers (ASCAP).

I have written and performed in English since the age of 15 and, in French, since my mid-20s. I duly obtain copyrights for all my work. To date, I've released five full-length albums, two of which are entirely in French, with another that is half in each language.

With each passing year, I seem to earn increasingly LESS in performance royalties despite continuing to add to my musical catalog. In 2013, I earned more than $500 in royalties, followed by $163.84 in 2014, and then only $134.86 in 2015. I have seen streaming payouts decrease in recent years from 99¢ per song to only one or two cents per stream.

Last year, it came to my attention that some of my French songs were being used and released, but that because I am an independent publisher not registered with a major label there was no advocate to obtain me the royalties I was due. I became so disheartened by this downward trend that I took steps to assure that I will earn any and all royalties due to me. It is mildly encouraging to note that as of the end of February I have earned $13.87 in royalties (up from $5.83 by February 2015), which reflects that effort. I can only hope that the pendulum has begun to swing back in my favor.

It is simply not possible at this point to make a living creating music as an indie artist.

StandCreative Series One: Mark Leibowitz
March 22, 2016

I love taking photographs. It's one way I relate to the world – capturing the beauty of life in an image.

After 13 years as a professional photographer and filmmaker, I still take pictures non-stop for personal enjoyment. My personal images, however, are very different from the images I create as a professional photographer and director of photography. My professional work requires considerably more planning, creative thought, and effort – which is how my employees, crew, and I all make our livelihood from this work.

So, what's the difference between walking outside to shoot a nice personal photo and putting together a professional shoot?

There's a big difference. For fun, it's just a vacation photo to share with friends and family where I point and shoot. For work, I'm creating a meticulously crafted message that provides substantial good to many people. A professional shoot involves steps that start months before photographs are actually taken:

- The process actually starts with my team and I editing through my 15-year+ archive of photos to create a portfolio and/or reel to show to a client.
- My employees retouch, print, and design every image to a high level of technical and creative excellence. We spend months sending out these materials to potential clients and repeatedly following up with them to stay top of mind.
- If we do a good job at staying top of mind, they contact us when they have a project and ask us to prepare an estimate. This takes numerous hours or, more often, multiple days depending upon the complexity and scope of the job.
- Once awarded the job, we start pre-production, which involves the following: days of creative research, client meetings and conference calls, prepping expensive gear, booking crew (including camera assistants, hair and makeup artists, grips, gaffers, prop and wardrobe stylists, and producers), looking at locations, getting permits for the locations we select, and having more calls with clients to go over all of the details above.
- Then it's shoot day and a team of 5 to 50+ all wake up, often before sunrise, drive to the location, and do the job they are trained to do. People set up lights, lift sandbags, lay down cables, arrange sets and scenery, bring in the talent, put makeup on them, dress them, and place them in the scene. My crew and I check that the lighting is perfect and then everyone takes a deep breath as I finally…
- … take the first photo.

What started many months earlier with weeks of editing has finally culminated in a professional photo shoot that yields a remarkably polished and focused product. We then choose the best images, process them, and make any edits or touch ups that we agree on with the client.

And everyone along every step of this process is a professional who pays for their healthcare, their children's school, their food, rent, gas, and everything else in their life with the money they make from this shoot and others like it.

My employees are real people – people you know. They are parents of teenagers applying to college, volunteers and donors to charity organizations, and supporters of their own parents and siblings. They are real people, with real needs, and very real obligations.

When our work is downloaded illegally, reposted without proper credit, or stolen in any form, my ability to keep these employees on my payroll and to support their lives and their loved ones is stolen as well. Please consider this before using anyone's creative work without permission.

StandCreative Series One: Doug Maddox
March 28, 2016

I produced *The Bill Collector* with actor Danny Trejo from *Machete* and *Undaunted* starring Allen Williamson from *Abduction* with Taylor Lautner.

The Bill Collector had great success with its theatrical worldwide release. After some time, I got a call from the FBI stating that the film had been pirated by a professional who was selling not just our film, but many other studio films out of Washington, DC. After the man was arrested, I was invited into the court process and was asked how much I wanted in compensation. I stated that a part of the $250,000 fine shown at the front of every film would be fair. I have received no compensation to date and do not expect to be paid. After all, the man has been fined and is in jail.

On *Undaunted,* I was recently told by our Spanish distributor that there have been approximately five different pirated versions of the film in Spanish. I went on YouTube to do a search for the Spanish version and English version and found *Undaunted* twice. On the Spanish YouTube page alone, the film has been viewed by more than two million people. Two million people equal a lot of money and lost revenue even at fifty cents coming back to the filmmaker.

Piracy is real and it's a real problem. I find it troubling that I find our movies and other movies up on YouTube. Pirating takes away from the incredible amount of work and artistry performed by not just myself as producer/director of films but crews that we hire. We have employees – many above and below-the-line filmmakers on the set. Since the money doesn't come back to the producers, it is harder to make more films to hire more crews to keep this industry rolling. I want to see piracy stopped and see money come back to the filmmakers so we can create more of the films that audiences love.

Let's stop piracy today.

StandCreative Series One: Dan Selakovich
April 18, 2016

Some years ago, I wrote and self-published a book for filmmakers called "Killer Camera Rigs That You Can Build." As I was the publisher, I was neck deep in the sales and distribution of the book.

The first edition sold extremely well (this was the only book of its kind and apparently much desired). The second edition was even beating first edition sales. Then sales dropped substantially. Within 3 weeks, I saw a 90% drop in sales. I couldn't figure it out until I did a Google search of my book. At the time, the first four pages of Google listed where you could get the book for free – one pirate site after another. I should point out that this book was not available in digital form at the time. Somehow, a PDF version had made its way onto the internet.

I started sending out DMCA notices. Most sites would take down the book, but it would mostly be back up by the next day. Some of the larger sites refused outright. ThePirateBay, for example, bragged: "We have never removed anything, and never would." I would spend a couple of hours every morning sending out these notices, but it was futile. For every site that took it down, five more would pop up. It was a never-ending, pointless task.

I begged Google to at least list legitimate sources where you could buy the book first on any search, but the reply was "that's not how search algorithms work." To me, Google was no better than a fence selling stolen goods. After all, they make money selling advertising to pirate sites, so I don't see any distinction.

It was much more profitable for them to send web searchers to pirate sites that they had sold ads to.

The DMCA couldn't help me. Websites should have to ask permission of the copyright holder before offering up any intellectual property — at the very least.

To fight piracy of my book, I wrote a much-expanded third edition and let Focal Press take over as publisher. Now I make a small royalty.

StandCreative Series One: Christian Keller
May 31, 2016

When I was 19 years old and just out of high school, I read about Gloria Trevi, the controversial "Mexican Madonna." This would be the beginning of an epic 10-year journey for me to get the film on the big screen.

Being Swiss, I had never heard of Gloria, but I was immediately captivated by her story and thought it needed to be told, so I got to working on a biopic of the controversial figure. Never having even made a short, I naïvely thought I could put the project together in a year – but it would take ten years to collect the rights, script, financing, and Academy Award®-winning team to make the film. In the meantime, Universal Pictures came on board and put forward a big release and marketing plan for *Gloria*. This was a dream come true for a small independent filmmaker like myself. Having a powerhouse behind me gave me confidence that I was on the right track.

A month before *Gloria* was set to be released on over 1,300 screens across Mexico, I saw copies of the film that took me ten years to complete, and involved the lives of hundreds of people to execute correctly, being sold for a few pesos on the streets of Mexico City – the primary market for my film.

Some people told me not to worry – that it wasn't a big deal, that piracy was just going to create more "buzz" for my film – and I believed them, but they couldn't have been more wrong. Millions of people saw the film in Mexico before its release, and millions more across the globe saw the film on YouTube and Facebook. It would show up on YouTube and receive 100,000 views night after night. The DVDs spread throughout Latin America, the US, and Europe overnight. Universal's anti-piracy team and I tried to take down illegitimate links across all websites and the few times we were successful in bringing down a stream, another five would pop up. The task was impossible.

The pirates were smart – they waited until all of the marketing dollars, which go into the millions, had been spent before the pirated versions of the movie hit the streets. You could see a billboard for *Gloria* and then either buy it on the same corner or go home and watch it for free on YouTube.

The piracy numbers continued to grow, and the biggest blow to our aspirations for *Gloria* hit – we lost US distribution for the film. Before the piracy numbers skyrocketed, we had a US distributor commit to spending $2M on advertising and get the film into 350 screens. After we felt the full effect of piracy, our distributor dropped out and *Gloria* was only seen on THREE screens in the US.

Making this film was a labor of love for a lot of us and we worked for next-to-nothing. We put our blood, sweat, and tears into this, and, at the end of the experience, I was saddled with a lot of debt. As a filmmaker, it grieves me tremendously that the film received less attention than it could have had because of piracy. The same goes for the actors and entire crew who devoted their time to the success of this film and that success was stolen from under them. None of us got paid, and none of us got what we deserved for making a film that was critically acclaimed across Mexico and received similar praise across other markets.

Piracy is a problem the same way that theft is a problem. Millions of people put food on the table by making what you watch on TV or in the theatre – and stealing that content robs them of their ability to continue to do their jobs. I am one of those people, but so are my actors, producers, editors, sound designers, composers, make-up artists, lighting technicians, camera operators, carpenters, designers,

costumers, set designers, VFX artists, production coordinators, and others. We all deserve to have our labor recognized and validated and protected from theft.

Creatives need to stand together and tell our detractors that stealing our content is not only illegal, but it is also just wrong. People, like me and my crew, work hard to make ideas a reality and to bring emotion to the viewing public. It's time that creatives take a stand and tell pirates that we will not be quiet any longer. We must, for our own livelihoods and the sustainability of our chosen careers, put an end to piracy.

I ask that you stand with us in the face of this threat and make the future of creativity a certainty.

StandCreative Series One: Shane Ryan
September 1, 2016

Growing up with a film editor as a father, I fell in love with all kinds of cinema at a young age. He taught me how to edit film when I was five, and I've been making movies ever since. Despite achieving some success and recognition in my 31 years of filmmaking, online piracy has left me struggling and reeling for ways to protect my work online.

My first major break as an independent filmmaker came in 2007, when I made the exploitation horror film *Amateur Pornstar Killer* in one night on a $45 budget. It quickly became a smash hit, spawning two sequels and receiving critical acclaim from MTV and the Theater for Living Arts (TLA).

Due to the controversial nature of *Amateur Pornstar Killer*, it was hard to distribute overseas and many countries banned the film. Consequently, the second film became one of the 25 most-pirated films across all torrent sites for around six years. My film was on the same list as some of Hollywood's biggest hits, yet I failed to profit from its success. I also learned from a friend who visited China that street vendors were illegally selling my movies as part of a bundle with Academy Award®-winning films. It was even for sale on Blu-ray, even though we never released it on Blu-ray!

With fewer distributors willing to take on edgy and controversial films like mine, pirates are inevitably becoming our main audience. One of the most frustrating things for me as a filmmaker was reading reviews on torrent websites from people who clearly didn't watch the film in its entirety. Many of the reviews for the second film complained about its lack of nudity, despite it being well known for its graphic ending. Unfortunately, I let this influence how I made the third film. I opened with more graphic scenes, which led my DVD manufacturer to refuse to make the DVDs for my distributor. I let pirates change the way I made my film, and it ended up hurting me as a filmmaker.

Despite *Amateur Pornstar Killer*'s success and notoriety, I haven't made a dime from any of my films. The trilogy was the only work I've done that earned me a paycheck, but I actually lost money on the films due to advertising and festival costs. On any given day, there is a new, illegal upload of one of my movies on YouTube. It's disturbingly easy for users to upload stolen copyrighted material. It's up to copyright owners to alert YouTube of any instances of infringement, but it's impossible to police the internet when I'm working 15-hour days making movies.

When I completed *My Name is 'A' by Anonymous* in 2014, which took a year to make and four years to find a distributor, I was happy to send a copy to a young film critic for review. When his readers begged him to illegally upload the film, they claimed an "unknown" filmmaker like myself would be happy to receive the buzz. This is simply not true. Studies have shown that the promotional impact of piracy doesn't outweigh the harms caused by violating copyrights. My new film *Faces of Snuff*, which is being released in November 2016, is already being advertised on pirate sites in Thailand. What can I do to stop it?

Why is it that people will spend $6 on a latte and wait five minutes for it to be made, but they won't spend $6 on a movie that takes a cast and crew years to make? It's simply not right.

StandCreative Series One: Bret Hampton
September 13, 2016

When Hollywood legend Paul Newman spoke at my film school, he remarked that only three of the 200 students in the audience would likely go on to work in the entertainment industry. Maybe it was a slight exaggeration back then, but in today's digital world where piracy has devalued creativity, it couldn't be more spot on.

When I first started, establishing myself as an editor often meant working for free and accepting any job that came my way. I first edited actors' demo reels before moving on to commercials, trailers, features and tv. I finally stopped working for free once I learned my craft well enough to charge for it and made a decent living. Eventually I worked my way up to Senior Video Editor at Image Entertainment, an independent video distributor. There, I worked on special features for the original *Star Wars* trilogy, *Toy Story*, *Mary Poppins*, *The Sound of Music* and others.

While fortunate to have beaten Paul Newman's odds, young editors face greater challenges establishing themselves in an age of rampant piracy.

Traditionally film school graduates launch their careers working in independent cinema. With this part of the industry suffering due to piracy, up-and-coming editors are paid less. Many of the major studios' independent art house divisions have shut down as it becomes more difficult to raise money for small and mid-budget movies. Budgets become smaller and filmmakers must find ways to make the same movies for less money, leading to less pay for editors like me.

It also means less money to pay writers, directors, set designers, costume designers, and the hundreds of other professionals who work on a movie set – they're all careers that take a keen imagination to do well. Creative jobs, including editing don't pay like they used to. You don't have to think too hard about the reason why – their capacity to make money will continue to be severely handicapped by piracy.

Piracy not only hurts up-and-coming artists; it hurts established ones like me. Many independent filmmakers offer less money for jobs that used to pay very well. For most of Hollywood's existence, the editing rooms I worked in cost hundreds of thousands of dollars to build and using them to their full potential required a vast education. And because of the sophistication inherent in the process, it was better to pay more for an experienced editor. Now, the money simply isn't there to pay people with experience – so if producers can get a film off the ground at all, they have to try to cut corners.

Unfortunately the future isn't looking very bright. Piracy continues growing and creativity continues to be devalued. If Paul Newman were to say the same thing at a film school today it'd be no exaggeration – and if anything, an understatement.